

Office of the Auditor General

Performance Audit Report

Regulation of Nursing Homes

Department of Licensing and Regulatory Affairs

September 2015



The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

Article IV, Section 53 of the Michigan Constitution



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Report Summary

Performance Audit

Regulation of Nursing Homes

Department of Licensing and Regulatory Affairs (LARA)

Report Number:
641-0451-15

Released:
September 2015

The Bureau of Health Care Services (BHCS) protects vulnerable nursing home residents by licensing homes, performing home inspections for compliance with Public Health Code and federal Medicare and Medicaid regulations, and investigating complaints and incidents at nursing homes. As of March 2015, BHCS licensed 452 nursing homes, including 437 that were federally certified to participate in Medicare and/or Medicaid programs. BHCS had 111 staff as of April 2015 and expended \$16.7 million for fiscal year 2014 to regulate nursing homes. Subsequent to our audit period, LARA reorganized BHCS into two bureaus, with the regulation of nursing homes organized within the Bureau of Community and Health Systems.

Audit Objective			Conclusion
Objective #1: To assess BHCS's efforts to establish and implement a comprehensive licensure and certification process for nursing homes.			Effective
Findings Related to This Audit Objective	Material Condition	Reportable Condition	Agency Preliminary Response
BHCS did not ensure that all inspections of non-participating nursing homes were completed timely. BHCS licensed 7 nursing homes without fire safety inspections (<u>Finding #1</u>).		X	Agrees
BHCS could improve its standard survey inspection practices by using available data systems to independently verify that nursing home staff are currently eligible for employment. BHCS did not verify that nursing home staff with disqualifying offenses were terminated from employment (<u>Finding #2</u>).		X	Agrees

A copy of the full report can be obtained by calling 517.334.8050 or by visiting our Web site at: <http://audgen.michigan.gov>

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Auditor General

September 4, 2015

Mr. Mike Zimmer, Director
Department of Licensing and Regulatory Affairs
Ottawa Building
Lansing, Michigan

Dear Mr. Zimmer:

I am pleased to provide this performance audit report on the Regulation of Nursing Homes, Department of Licensing and Regulatory Affairs.

Your agency provided preliminary responses to the recommendations at the end of our fieldwork. The *Michigan Compiled Laws* and administrative procedures require an audited agency to develop a plan to comply with the recommendations and submit it within 60 days of the date above to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

A handwritten signature in black ink that reads "Doug Ringler". The signature is written in a cursive style.

Doug Ringler
Auditor General

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AUDIT OBJECTIVES, CONCLUSIONS, FINDINGS, AND OBSERVATIONS

ESTABLISHING AND IMPLEMENTING A COMPREHENSIVE LICENSURE AND CERTIFICATION PROCESS

BACKGROUND

The Bureau of Health Care Services (BHCS) is required to biennially review compliance with State licensing requirements. This review is completed either concurrently with the standard survey inspection* of the participating nursing homes* or separately for the approximately 15 nursing homes* that do not participate in Medicare or Medicaid programs (non-participating nursing homes*). Also, BHCS manages the workforce background check program for nursing homes and staffing agencies* to verify the employment eligibility of staff* and the Nurse Aide Registry program for certification of nurse aides.

In addition, BHCS completes standard survey inspections of approximately 437 nursing homes that are federally certified to participate in and receive funding for Medicare and/or Medicaid programs (participating nursing homes). The inspections assess the quality of care and certify compliance with Medicare and Medicaid regulations. Further, BHCS completes revisit survey inspections* to follow up deficiencies identified during standard survey inspections and completes abbreviated standard survey inspections* to investigate complaints and incidents.

Subsequent to our audit period, the Department of Licensing and Regulatory Affairs (LARA) reorganized BHCS into two bureaus, with the regulation of nursing homes organized within the Bureau of Community and Health Systems. Therefore, the recommendations are directed to the new bureau.

AUDIT OBJECTIVE

To assess BHCS's efforts to establish and implement a comprehensive licensure and certification process for nursing homes.

CONCLUSION

Effective.

FACTORS IMPACTING CONCLUSION

- Timely completion of 100% of the standard survey inspections of participating nursing homes for fiscal years 2013 and 2014.
- Timely completion of 96% and 95% of revisit survey inspections for fiscal years 2013 and 2014, respectively.

* See glossary at end of report for definition.

- Timely completion of 90% of abbreviated standard survey inspections to investigate complaints and facility*-reported incidents and 96% of abbreviated survey revisits for fiscal year 2014.
- Creation of a Web-based portal application to more efficiently manage the flow of standard and abbreviated standard survey inspection documents between BHCS and the nursing homes and promote transparency of survey results.
- Creation of a Web-based portal application to more efficiently process and investigate incidents reported by nursing homes.
- Reportable conditions* related to timely inspections of non-participating nursing homes and verification of nursing home staff employment eligibility.

* See glossary at end of report for definition.

FINDING #1

Timely inspections of non-participating nursing homes needed to ensure safety of residents.

BHCS licensed 7 nursing homes without fire safety inspections.

BHCS did not ensure that all inspections of non-participating nursing homes were completed in a timely manner, increasing the safety risk of nursing home residents.

BHCS licensed 15, 13, and 15 non-participating nursing homes for fiscal years 2013, 2014, and 2015 (as of May 2015), respectively. We noted:

- a. BHCS issued licenses to 4 and 3 non-participating nursing homes that did not have a fire safety inspection conducted by the Bureau of Fire Services for fiscal years 2013 and 2014, respectively. As of May 31, 2015, none of these 7 fire safety inspections had been conducted.

Section 333.20156 of the *Michigan Compiled Laws* prohibits LARA from issuing an annual license to nursing homes that have not received an appropriate certificate of approval from the Bureau of Fire Services. The Bureau of Fire Services conducts fire safety inspections of nursing homes and certifies approval for those nursing homes that are in compliance with fire safety requirements.

- b. BHCS did not timely complete standard survey inspections for 4 non-participating nursing homes for each of fiscal years 2013, 2014, and 2015. BHCS conducted the standard survey inspections from 1 to 11 months late.

Section 333.20155(8) of the *Michigan Compiled Laws* requires LARA to complete a biennial visit to each licensed nursing home for purposes of survey, evaluation, and consultation.

Although BHCS uses a database to monitor the inspection status of the participating nursing homes, the database did not have the functionality to monitor the inspection status of non-participating nursing homes.

RECOMMENDATION

We recommend that the Bureau of Community and Health Systems ensure that all inspections of non-participating nursing homes are completed in a timely manner.

AGENCY PRELIMINARY RESPONSE

LARA provided us with the following response:

LARA agrees and will be in compliance by January 1, 2016.

The Long Term Care Division will develop a procedure to ensure that all State-licensed only nursing homes are inspected biennially as required by State law. Nursing homes that are State licensed and participate in the Medicare program

are currently inspected every 9 to 15 months according to federal participation requirements.

The procedure will require the Division managers (licensing officers and survey monitors) to create an annual document to identify and track required inspections of each State-licensed only nursing home, the date of the last survey cycle, and the projected date of the next survey. The tracking document will be available to each manager, as well as the manager responsible for the Life Safety Code inspectors to ensure coordination of scheduling. The document will include step-by-step instructions for the creation and maintenance of the document. The Division managers will also add the projected dates to their Outlook calendar two months prior to the projected survey due date. The purpose of adding the projected survey dates to the Outlook calendars is to provide a redundant system. The licensing officers will notify the Life Safety Code manager when the surveys are scheduled. The Division director and licensing officers will review the schedule quarterly to ensure that the surveys are scheduled and completed as required.

FINDING #2

Improved verification of nursing home staff employment eligibility needed.

BHCS could improve its standard survey inspection practices and help ensure the safety of nursing home residents by using available data systems to independently verify that nursing home staff are currently eligible for employment.

We reviewed BHCS's standard survey inspection practice for reviewing staff employment eligibility and randomly selected 26 nursing homes from within BHCS's three geographical regions:

- a. BHCS did not verify, as part of its standard survey inspection, that the nursing homes or staffing agencies had terminated staff who had disqualifying offenses* recorded in LARA's electronic criminal history system subsequent to being employed.

Section 333.20173a(14) of the *Michigan Compiled Laws* requires LARA to notify nursing homes or staffing agencies if staff have a subsequent disqualifying offense that would prohibit employment in a nursing home.

Our review of LARA's electronic criminal history system identified 2,458 staff, for all 452 nursing homes, who had disqualifying offenses subsequent to being employed. For the 26 nursing homes sampled, we verified that none of the 159 disqualified staff were employed at the nursing homes. However, another nursing home had rehired one employee for 8 months after being notified by BHCS that the employee had a disqualifying offense.

- b. BHCS did not use LARA's electronic criminal history system to verify that the nursing homes or staffing agencies completed criminal history checks on potential staff. As part of its standard survey inspections, BHCS manually verifies that the nursing homes or staffing agencies complete the required criminal history check on a selection of potential staff who would have direct access or provide direct services to residents. However, the electronic system would provide an independent, reliable source to verify that the nursing homes or staffing agencies completed the required criminal history check and whether those staff had criminal offenses that would prohibit them from working in a nursing home. We noted:
 - (1) One nursing home had not conducted a criminal history check of one employee.
 - (2) BHCS did not identify the employee in part a. as being disqualified even though BHCS reviewed the nursing home's criminal history check

* See glossary at end of report for definition.

documentation of this employee during its standard survey inspection. The criminal history check documentation on file was for an employment period prior to the disqualifying offense. If BHCS had used the electronic criminal history system to independently verify the employee's criminal history, it would have identified this employee's disqualification.

- c. BHCS did not use LARA's License 2000 or Nurse Aide Registry systems to verify licensing or certification of nursing home staff.

Section 333.21796 of the *Michigan Compiled Laws* requires certain nursing home personnel to be properly licensed, and Title 42, Part 483, section 75(e)(5) of the *Code of Federal Regulations (CFR)* requires verification from the Nurse Aide Registry that a nursing home nurse aide has met competency evaluation requirements before employment.

BHCS manually verifies the paper license or certification maintained by the nursing home for staff selected during BHCS's standard survey inspections. Although our review disclosed that all 334 of the 4,258 staff in our sample of 26 nursing homes were properly licensed or certified, the License 2000 and Nurse Aide Registry systems would be an independent, reliable source to verify licenses and certifications and would identify actions applied after issuance of the paper license or certification, such as suspensions or revocations.

- d. BHCS did not document its rationale for testing the licensing, certification, and criminal history checks for more nursing home staff than required. For the 26 nursing homes sampled, BHCS tested an average of 5% of nursing home staff ranging from 6 (1.4%) of 425 staff to 13 (52.0%) of 25 staff. For standard survey inspections for federal certification, BHCS indicated that it followed the federal State Operations Manual requirement to test five nursing home staff hired within the past four months for employment prescreening but added that it may judgmentally decide to test additional staff.

BHCS had not updated its standard survey inspection processes for testing nursing home staff to utilize the advantages of technology.

RECOMMENDATION

We recommend that the Bureau of Community and Health Systems improve its standard survey inspection practices by using available data systems to independently verify that nursing home staff are currently eligible for employment.

AGENCY PRELIMINARY RESPONSE

LARA provided us with the following response:

LARA agrees and will be in compliance by January 1, 2016.

The Long Term Care Division will implement a process for reviewing any notifications of employee background checks that verify a conviction of an excluding offense. The new procedure will ensure compliance with federal regulation 42 CFR 483.13 and Section 333.20173a of the Michigan Compiled Laws. The process will include the verification of action by the employers when they receive notification of a "rap back" for one of their employees.

The process will include the Division surveyors receiving training on how to verify compliance while on site and in real time. Prior to the on-site survey, the survey monitor, direct manager to the surveying team, will coordinate with the workforce background check staff to verify if any rap back reports have been received for the applicable provider since the last annual survey. If yes, this information will be provided to the applicable survey team leader. A sample size of 10%, up to a maximum of 15 total employees, will be included in the sample to be reviewed on site. Any employees with recent rap backs will be included as part of the initial sample. If a deficient practice is noted, an additional 10 employee files will be reviewed, for a maximum total of 25. The surveyor will observe the administrator's, or the designated employee's, access to the criminal background check/"rap back" system and observe any "rap back" notices received through the system for a "real time" verification.

If the facility does not know how to utilize the criminal background check/"rap back" system, the facility will be held accountable by the surveyor and a citation will be issued pursuant to the State Operations Manual under F225, Task 5G – Obtain a list of all employees hired within the previous 4 months, and select five from the list. The surveyor as part of the survey process will ask the facility to provide evidence that the facility conducted prescreening based on the regulatory requirements at federal regulation 42 CFR 483.13(c).

SUPPLEMENTAL INFORMATION

UNAUDITED
Exhibit 1

REGULATION OF NURSING HOMES Department of Licensing and Regulatory Affairs

Survey Inspection Information

Surveys and Deficiencies*	Fiscal Year 2013	Fiscal Year 2014
Participating Nursing Homes:		
Number of standard survey inspections completed	430	416
Number of standard survey inspections completed timely	430	415
Percentage of standard survey inspections completed timely	100%	100%
Number of revisit survey inspections completed	457	321
Number of revisit survey inspections completed timely	438	306
Percentage of revisit survey inspections completed timely	96%	95%
Total number of deficiencies from standard survey inspections	2,704	2,626
Average number of deficiencies per standard survey inspection	6	6
Non-Participating Nursing Homes:		
Number of standard survey inspections completed	8	6
Number of standard survey inspections completed timely	4	2
Percentage of standard survey inspections completed timely	50%	33%

Most Frequent Deficiencies From Standard Survey Inspections	Fiscal Year 2013		Fiscal Year 2014	
	Rank	Number of Deficiencies	Rank	Number of Deficiencies
Free of accident hazards/supervision/devices	1	441	2	165
Infection control, prevention, spread	2	234	1	193
Provide care/services for highest well-being	3	204	5	112
Sanitary food procurement/storage/preparation/serving	4	186	3	152
Unnecessary drugs	5	178	4	117
Treatment/services to prevent/heal pressure sores	6	142	7	95
Develop/implement abuse/neglect, etc., policies	7	139	6	95
Dignity and respect of individuality	8	130	N/A	N/A
Develop comprehensive care plans	9	129	N/A	N/A
Safe, functional, sanitary, comfortable environment	10	115	9	83
Control, labeling, and storage of drugs	N/A	N/A	8	87
Medication errors 5% or greater	N/A	N/A	10	69

N/A: Not in top 10.

Source: The Office of the Auditor General prepared this exhibit with information obtained from BHCS and the Medicare.gov Nursing Home Compare Web site.

* See glossary at end of report for definition.

REGULATION OF NURSING HOMES
Department of Licensing and Regulatory Affairs

Complaint and Incident Information

Complaints and Facility-Reported Incidents in Fiscal Year 2014

Number of complaints and facility-reported incidents	3,797
Number of complaints and facility-reported incidents investigated timely	3,399
Percentage of complaints and facility-reported incidents investigated timely	90%
Number of abbreviated standard survey inspections conducted to investigate complaints/incidents (may include multiple complaints/incidents)	2,037
Number of revisit survey inspections completed	839
Number of revisit survey inspections completed timely	803
Percentage of revisit survey inspections completed timely	96%

<u>Most Frequent Deficiencies From Complaints and Facility-Reported Incidents</u>	<u>Fiscal Year 2013</u>		<u>Fiscal Year 2014</u>	
	<u>Rank</u>	<u>Number of Deficiencies</u>	<u>Rank</u>	<u>Number of Deficiencies</u>
Free of accident hazards/supervision/devices	1	239	1	181
Provide care/services for highest well-being	2	107	2	126
Dignity and respect of individuality	3	67	5	53
Free from abuse/involuntary seclusion	4	66	7	46
Investigate/report allegations/individuals	5	66	3	122
Develop/implement abuse/neglect, etc., policies	6	57	4	102
Services provided meet professional standards	7	57	10	40
Notify of changes (injury/decline/room, etc.)	8	43	9	41
Prohibit mistreatment/neglect/misappropriation	9	38	8	45
Develop comprehensive care plans	10	38	N/A	N/A
Treatment/services to prevent/heal pressure sores	N/A	N/A	6	50

N/A: Not in top 10.

Source: The Office of the Auditor General prepared this exhibit with information obtained from BHCS.

AGENCY DESCRIPTION

The mission* of BHCS was to protect, preserve, and improve the health, safety, and welfare of Michigan's citizens through the licensing and regulation of long-term care facilities, health professionals, and health facilities. BHCS regulated nursing homes by issuing licenses, performing licensing and certification survey inspections (see Exhibit 1), and investigating complaints and facility-reported incidents (see Exhibit 2) to ensure compliance with the Public Health Code (Sections 333.20101 - 333.20211 and 333.21701 - 333.21799e of the *Michigan Compiled Laws*) and federal Medicare and Medicaid regulations (federal regulation 42 *CFR* 483, Subpart B). As of March 2015, BHCS licensed 452 nursing homes with 46,747 beds, including 437 nursing homes that were federally certified to participate in Medicare and/or Medicaid programs.

BHCS had 111 staff assigned to the regulation of nursing homes as of April 2015 and expended \$17.6 million and \$16.7 million for fiscal years 2013 and 2014, respectively, for activities to regulate nursing homes.

* See glossary at end of report for definition.

AUDIT SCOPE, METHODOLOGY, AND OTHER INFORMATION

AUDIT SCOPE

To examine BHCS's records and processes related to the licensure and certification of nursing homes. We conducted this performance audit* in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusion based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objective.

PERIOD

Our audit procedures, which included a preliminary survey, audit fieldwork, report preparation, analysis of agency responses, and quality assurance, generally covered the period October 1, 2012 through February 28, 2015.

METHODOLOGY

We conducted a preliminary survey of BHCS's operations related to the regulation of nursing homes to formulate a basis for establishing our audit objective and methodology. During our preliminary survey, we:

- Interviewed BHCS personnel to obtain an understanding of the processes to conduct standard survey inspections for licensing and certification and abbreviated standard survey inspections for investigating complaints and incidents.
- Tested 6 randomly selected standard survey inspection files of the most recently completed survey for timeliness, sufficiency, and follow-up.
- Tested 15 randomly selected abbreviated standard survey inspections from October 2014 through January 2015 to investigate complaints or incidents for timeliness, sufficiency, and follow-up.
- Reviewed various reports for statistical information on the completion, timeliness, and results of survey inspections.
- Reviewed applicable laws, administrative rules, federal regulations, and policies and procedures.

OBJECTIVE #1

To assess BHCS's efforts to establish and implement a comprehensive licensure and certification process for nursing homes.

* See glossary at end of report for definition.

To accomplish our objective, we:

- Randomly selected 334 nursing home staff from 26 nursing homes randomly selected from within BHCS's three geographical regions and reviewed the most recently completed standard survey inspection during our audit period for:
 - Active licenses in the License 2000 system.
 - Certifications in the Nurse Aide Registry system.
 - Criminal history checks in the electronic criminal history system.
- Randomly selected an additional 15 abbreviated standard survey inspections from within BHCS's three geographical regions from October 2013 through December 2014 and reviewed the investigation of the complaint or incident for timeliness, sufficiency, and follow-up.
- Verified termination of employment for 159 nursing home staff, following a subsequent disqualifying offense, from 26 nursing homes randomly selected from within BHCS's three geographical regions for October 2012 through January 2015.
- Verified the timeliness of biennial standard survey inspections completed for non-participating nursing homes for fiscal years 2013, 2014, and 2015 (as of May 2015).
- Reviewed reports of survey inspections for reliability and compliance with timeliness requirements for fiscal year 2014.
- Verified compliance with the annual fire safety inspection requirement for the 26 randomly selected participating nursing homes and totaled all fire safety inspections completed for fiscal year 2014 and compared with total licensed nursing homes for reasonableness.
- Verified the completion of fire safety inspections for non-participating nursing homes for fiscal years 2013 and 2014.
- Analyzed survey inspection data to identify high risk nursing homes and reviewed for appropriate oversight measures.
- Analyzed revenue from fines and penalties assessed to nursing homes for reasonableness for fiscal years 2012, 2013, and 2014.

CONCLUSIONS

We base our conclusions on our audit efforts and the resulting material conditions* and reportable conditions.

When selecting activities or programs for audit, we direct our efforts based on risk and opportunities to improve State government operations. Consequently, we prepare our performance audit reports on an exception basis.

**AGENCY
RESPONSES**

Our audit report contains 2 findings and 2 corresponding recommendations. LARA's preliminary response indicates that it agrees with both recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion at the end of our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100) require an audited agency to develop a plan to comply with the recommendations and submit it within 60 days after release of the audit report to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

**PRIOR AUDIT
FOLLOW-UP**

We followed up 5 of the 20 recommendations from our April 2001 performance audit of the Regulation of Nursing Homes, Adult Foster Care Homes, and Homes for the Aged, Department of Consumer and Industry Services (63-451-99). LARA complied with the 5 prior audit recommendations. The other 15 recommendations were followed up in other audits.

**SUPPLEMENTAL
INFORMATION**

Our audit report includes supplemental information presented as Exhibits 1 and 2. Our audit was not directed toward expressing a conclusion on Exhibits 1 and 2.

* See glossary at end of report for definition.

GLOSSARY OF ABBREVIATIONS AND TERMS

abbreviated standard survey inspection	A survey, other than a standard survey, that gathers information primarily through resident-centered techniques on facility compliance with the requirements of participation. An abbreviated standard survey may be based on complaints received; a change in ownership, management, or director of nursing; or other indicators of specific concern.
BHCS	Bureau of Health Care Services.
deficiency	A facility's failure to meet a participation requirement specified in the Social Security Act or in Title 42, Part 483, Subpart B of the <i>Code of Federal Regulations</i> .
disqualifying offense	A criminal offense, as identified in Section 333.20173a(1) of the <i>Michigan Compiled Laws</i> , that would prohibit a person from employment in a nursing home.
facility	A skilled nursing facility or a nursing facility or a distinct part of a skilled nursing facility or a nursing facility.
LARA	Department of Licensing and Regulatory Affairs.
material condition	A matter that, in the auditor's judgment, is more severe than a reportable condition and could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program.
mission	The main purpose of a program or an entity or the reason that the program or the entity was established.
non-participating nursing home	A nursing home that is State-licensed only and is not federally certified to participate in Medicare and Medicaid programs.
nursing home	A nursing care facility, including a county medical care facility, that provides organized nursing care and medical treatment to seven or more unrelated individuals suffering or recovering from illness, injury, or infirmity.
participating nursing home	A nursing home that is federally certified to participate in Medicare and/or Medicaid programs.

performance audit	An audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.
reportable condition	A matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: an opportunity for improvement within the context of the audit objectives; a deficiency in internal control that is significant within the context of the audit objectives; all instances of fraud; illegal acts unless they are inconsequential within the context of the audit objectives; significant violations of provisions of contracts or grant agreements; and significant abuse that has occurred or is likely to have occurred.
revisit survey inspection	An inspection following a survey, conducted to verify that the facility has been restored to substantial compliance with the requirements of participation.
staff	Employees and contracted individuals, for purposes of this report.
staffing agency	An entity that recruits candidates and provides temporary and permanent qualified staffing for facilities.
standard survey inspection	A periodic, resident-centered inspection that gathers information about the quality of service furnished in a facility to determine compliance with the requirements of participation.

